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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/029,073

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John Almeida

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06/02/2006

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EXAMINER

MCALLISTER, STEVEN B

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 06/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/029,073	Applicant(s) ALMEIDA, JOHN	
	Examiner Steven B. McAllister	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 176-232 is/are pending in the application.
- 4a) Of the above claim(s) 206-218 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 176-205 and 219-232 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of claims 176-205 and 219-232 in the reply filed on 3/7/2006 is acknowledged.

Claims 206-218 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3/7/3006.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 176-205 and 219-232 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Throughout the claims "a" is used in conjunction with "the" to address elements which have already been recited. For instance, in claim 176 "a first software" element is recited in line 2. This recitation is proper since it is the first recitation of the element. However, subsequently, "said a first software" is recited. This is indefinite. It is recommended to leave out the "a" in subsequent recitations of the same element (for instance, "said first software").

Claim 176 is unclear because "means to manage and includes" is unclear.

The claims are unclear because through “at least one content” is recited with respect to the first, second, third, fourth and fifth software elements. It is not clear whether they are hosting the same or different content. If the same content is being recited again, it is recommended to claim “said at least one content” and if each of the software elements is intended to have different content, it is recommended to claim “at least first content”, “at least second content”, etc.

The claims are unclear because they recite first through fifth “software elements” hosting content, presumably each for an e-store. But as understood by the examiner, the content of all stores is hosted by a single software system having a database wherein the content of all of the stores is in the database.

Claims 205 and 227-232 are unclear because they recite “foreign language translation”, but as understood by the examiner, the application does not disclose a translation system, per se. Rather, it appears that it discloses a system which can present content in a plurality of languages by accessing pre-recorded content in a particular language via database tables.

Claims 227-232 are unclear because they recite the subcombination of “foreign language translation”, but the claims depend from the combination of a “a virtual network with foreign language translation”. The claims should be amended to recite the combination since the claim from which they depend is drawn to the combination.

Claim 229 is unclear because “comprising: having a...” is unclear.

Claim 230-232 is indefinite because claim 230 recites only method steps, which are not limiting on an apparatus claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 230-232 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 230 recites an improper hybrid of an apparatus claim (claim 205 is an apparatus) and a method claim (claim 230 recites only method steps). 35 USC 101 provides for apparatus or method claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 176-200, 219, 220, 225 and 226 are rejected under 35 U.S.C. 102(b) as being anticipated by Nahan et al (5,999,915).

Nahan shows at least a first computer having a first software element embedded on at least one tangible media on the computer, the first software hosting content of a single category (e.g., one of the software elements on servers 3, 5 hosting items for

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sale by various art galleries); a second software element hosting content (e.g., also hosting software on servers 3, 5); the second software element having means to manage inclusion and exclusion of contents hosted by the other software elements wherein the means to manage inclusion includes the at least one content of the first software element (see e.g., col. 12, lines 26-34 showing broadening of items considered to include all items in the system and also the ability to create a portfolio of items owned by only a certain gallery).

As to claim 190, Nahan shows, in addition to the elements discussed regarding claim 176, a third software element virtually hosting content of the first and second software elements (e.g., also hosting software on servers 3, 5; and col. 3, lines 6-12).

As to claims 178-180, 191, 193, 196, 199, 200, 220 Nahan shows means to create a content page for viewing with a uniform appearance (see e.g., Tables 1 and 2, col. 13, lines 12-22).

As to claim 181-187, 192, 194, 219, 225, 226 Nahan shows a third software element and fourth software element hosting at least one content (e.g., also hosting software on servers 3, 5) wherein all software elements virtually host each others content.

As to claim 189, and 195 Nahan shows the software elements having managing functions include one of editing, changing, deleting and updating (e.g., col. 13, lines 23-29).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 201-204, 221-224 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nahan et al.

Nahan shows all elements except a fifth software element host content and virtually hosting the at least one content of two other (fourth and first, fourth and second, etc) software elements. However, the examiner takes official notice that it is notoriously old and well known in the art to provide a fifth software element hosting content and virtually hosting the content of two other software elements. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Nahan by providing such a fifth software element in order to provide access for a greater number of galleries and to provide a greater selection of items for the other galleries.

As to claims 202, 203, 222, and 224, Nahan shows these additional elements as previously noted in the 102 rejections.

Claims 205 and 227-232 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nahan et al in view of Herbert, III (6,018,742).

Nathan shows all elements except that the third software element has means to translate the content hosted by the first and second software elements.

Herbert shows software capable of translating the first and second content into a plurality of foreign languages. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Nahan by providing the translation of Herbert in order to enable the content to be read by people who speak different languages.

As to claim 227, Herbert shows a table having at least 3 columns and two rows (see e.g., Fig. 22).

As to claim 228, Herbert shows at least one code parameter for a foreign language (e.g., language ID's 129, 27, 34); and two code parameters representing the content hosted by the first and second software (see, e.g., part ID 1000, 1001) (it is noted that in the context of Nahan, these item ID's are for items hosted by different software elements).

As to claim 228-232 Herbert shows all elements including a column having the content represented in first and second foreign languages (see e.g., the various translations of "hammers" and "pliers" in the Description columns of Fig. 22).

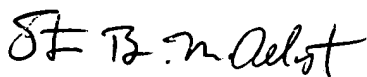
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (571) 272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander G. Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Steven B. McAllister

Steven B. McAllister
Primary Examiner
Art Unit 3627

STEVE B. MCALLISTER
PRIMARY EXAMINER